THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 9001 OF 2007

DATED: 5.6.2007

Between:

M.Venkateswara Rao and nine others

… Petitioners

and

The Government of A.P. rep. by the District Collector, Khammam and others

….Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.9001 OF 2007

ORAL ORDER:

The writ petition is filed for a declaration "that the action of the respondents in not considering our objections as to the proposed issuance of pattadar passbook and title deeds in favour of the respondents 4 to 13, under Section. 5(3) of the A.P. Rights in Land and Pattadar Pass Books Act,1971 and not disposing of the same in accordance with the provisions of law, as being illegal, unjust, arbitrary, discriminatory and unconstitutional, being in violation of the provisions of Act 26 of 1971, and Arts.14 and 300-A of the Constitution of India, apart from the principles natural justice." and for a consequential direction to the 2nd respondent to dispose their objections lodged, under Section.5(3) of the A.P. Rights in Land and Pattadar Pass Books Act,1971 (for short "the Act") and for other reliefs.

It would appear that the respondent Nos.4 to 13 filed an application before the 2nd respondent for incorporation of their names in the pahanis from 1986 onwards in respect of the lands (old Survey No.5) correlated to new Survey.No.262 in an extent of Ac.380.00 in Sarapaka village, Burgampahad Mandal, Khammam District. The said respondents claimed the lands as being patta lands belonging to late Mandamanchi Narsaiah son of Venkataramaiah, whose legal heirs they claimed to be and on that basis sought the relief set out in their application to the

2nd respondent.

The petitioners submitted representations dated.20-02-2006 and 07-03-2006 to the 2nd respondent objecting to the recording of the names of the respondent Nos.2 to 14 and grant of pattadar passbooks to them in respect of the lands in question and for the reasons elaborately set out in their representations. These representations have not yet been considered nor the petitioners called for an enquiry by the 2nd respondent and the 2nd respondent is proceeding to issue pattadar pass books in favour of respondent Nos.4 to 13, is the complaint in the writ petition. In support of this apprehension, the petitioners rely on a letter dated.30-06-2006 addressed by the 2nd respondent to the 1st respondent purportedly intimating the 1st respondent that the names of the party-respondents herein would be incorporated in the pahanis left over from 1986-87 till date. The petitioners also seek sustenance from a representation submitted by the party-respondents to the 2nd respondent on 19-10-2006 wherein a reference is made by the party-respondents to the communication dated.30-06-2006 addressed by the 2nd respondent to the 1st respondent.

Admittedly no orders yet have been passed by the 2nd respondent on the party-respondents' application for recording of their names under the provisions of the Act. Against an order by the recording authority passed under Sec.5-A of the Act, an appeal lies to the Revenue Divisional Officer under Section.5-B of the Act. Under Secttion.8(2) of the Act if any person is aggrieved as to any rights as a consequence of an entry made in any record of rights, he may institute a suit against any person denying or interested to deny his title to such right. Against an order of the appellate authority under the Act there is

also a revisional remedy under Section.9 of the Act.

For the nonce however the petitioners do not assert that the 2nd respondent has passed any order on the party-respondents' application for recording of their names in the record of rights and issuance of pattadar pass books. In the circumstances this court discerns no warrant to issue an order in the nature of an advisory to the 2nd respondent to hear and afford an opportunity to the petitioners before passing an order. It is trite that as the petitioners had objected to the relief sought by the party-respondents, the 2nd respondent must afford an opportunity. There is no reason to presume that the 2nd respondent is unaware of the law or is oblivious to the consequences that flow on a statutory authority ignoring the law.

There are no merits. The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM,J

5th JUNE,2007
***TSNR**